

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 05 11095 NG

THOMAS ROY and LISA ROY,	)
Plaintiffs,	)
	)
v.	)
	)
DELAWARE NORTH COMPANIES, INC.	)
- BOSTON,	)
Defendant.	)
	)

**DEFENDANT, DELAWARE NORTH COMPANIES, INC.- BOSTON'S ANSWER TO  
PLAINTIFFS, THOMAS ROY'S AND LISA ROY'S COMPLAINT**

**FIRST DEFENSE**

The plaintiffs' complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

**(The Parties and Jurisdiction)**

The defendant responds to the plaintiffs' complaint, paragraph by paragraph, as follows:

1. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the plaintiffs' complaint.
2. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the plaintiffs' complaint.
3. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the plaintiffs' complaint.
4. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the plaintiffs' complaint.
5. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the plaintiffs' complaint.

**COUNT I**  
**(Negligence)**

**(Thomas Roy v. Delaware North Companies, Inc. – Boston)**

6. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the plaintiffs' complaint.

7. The defendant denies the allegations in contained in this paragraph of the plaintiffs' complaint.

8. The defendant denies the allegations in contained in this paragraph of the plaintiffs' complaint.

**COUNT II**  
**(Loss of Consortium)**

**(Lisa Roy v. Delaware North Companies, Inc. – Boston)**

The defendant adopts by reference its responses to paragraphs 1 through 8 of the plaintiffs' Complaint.

9. The defendant denies the allegations in contained in this paragraph of the plaintiffs' complaint.

**WHEREFORE**, the defendant demands that the complaint be dismissed and judgment entered in favor of the defendant with the costs and disbursements of this action.

**THIRD DEFENSE**

By way of affirmative defense, the defendant says that if the plaintiffs suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct the defendant was not and are not legally responsible.

**FOURTH DEFENSE**

By way of affirmative defense, the defendant says that the negligence of the plaintiff was greater than the alleged negligence of the defendant and that such negligence of the plaintiff contributed to his alleged injury and, therefore, the plaintiff is barred from recovery under M.G.L. Ch. 231, §85.

**FIFTH DEFENSE**

By way of affirmative defense, the defendant says that the plaintiff was guilty of contributory negligence and that the damages, if any, recovered by the plaintiff from the defendant should be reduced in proportion to the said negligence of the plaintiff in accordance with M.G.L. Ch. 231, §85.

**SIXTH DEFENSE**

By way of affirmative defense, the defendant says that the action is barred by the applicable statute of limitations.

**SEVENTH DEFENSE**

By way of affirmative defense, the defendant says that the plaintiff cannot recover for the reason that he failed to give notice of the damages allegedly suffered by him to the defendant as required by the statutes of the Commonwealth of Massachusetts.

**EIGHTH DEFENSE**

By way of affirmative defense, the defendant says that the complaint misnames the defendant.

**NINTH DEFENSE**

By way of affirmative defense, the defendant says that service of process was insufficient.

**TENTH DEFENSE**

The defendant says that the plaintiffs released the defendant or its agents from any liability and the plaintiffs is therefore barred from recovery.

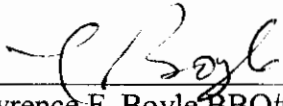
**WHEREFORE**, the defendant demands that the complaint be dismissed and judgment entered in favor of the defendant with the costs and disbursements of this action.

**JURY CLAIM**

The defendant demands a trial by jury as to all issues properly triable by jury.

The Defendant,  
DELAWARE NORTH COMPANIES, INC. -  
BOSTON,  
By its attorneys,

MORRISON MAHONEY LLP

  
\_\_\_\_\_  
Lawrence F. Boyle BBO# 052680  
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Boston, MA 02210  
(617) 439-7500

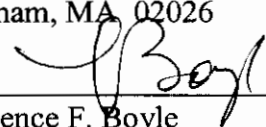
Dated: June 17<sup>th</sup> 2005

**CERTIFICATE OF SERVICE**

I, Lawrence F. Boyle, do hereby certify that I have this day served the foregoing Defendant, *Delaware North Companies, Inc. – Boston's Answer to Plaintiff's Complaint*, to counsel of record to this action by mailing the same, postage prepaid to:

Joseph G. Abromovitz, Esquire  
858 Washington Street, 3<sup>rd</sup> Floor  
Dedham, MA 02026

Date: June 7, 2005

  
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Lawrence F. Boyle